

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office, facsimile no. 571-273-0025, on the date shown below.

Dated: November 15, 2005

Signature:

(David A. Gass)

Docket No.: 30899/40642  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Robert Lamb

Application No.: 09/670,346

Confirmation No.: 4446

Filed: September 27, 2000

Art Unit: 1615

For: VITAMIN E  
PHOSPHATE/PHOSPHATIDYLCHOLINE  
LIPOSOMES TO PROTECT FROM OR  
AMELIORATE CELL DAMAGE

Examiner: G. Kishore  
Customer No.: 04743

**FAX RECEIVED**

NOV 15 2005

**OFFICE OF PETITIONS**

**PETITION PURSUANT TO 37 CFR §1.313(C)**

MS Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicant hereby petitions the Commissioner to withdraw Application Serial No. 09/670,346 from issue to consider a Request for Continued Examination and Amendment to the priority claim of the application that have been filed concurrently with this petition. Copies are attached as Exhibit A.

The Director is hereby authorized to charge the fee under 37 C.F.R. §1.17(h) (\$130) and any other fees due to our Deposit Account No. 13-2855, under Order No. 30899/40642.

Dated: November 15, 2005

Respectfully submitted,

By

David A. Gass

Registration No.: 38,153

MARSHALL, GERSTEIN & BORUN LLP  
233 S. Wacker Drive, Suite 6300  
Sears Tower  
Chicago, Illinois 60606-6357  
(312) 474-6300

11/16/2005 AKELLEY 00000018 132855 09670346

01 FC:1464 130.00 DA

# **EXHIBIT A**

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Approved for use through 07/31/2008. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

# TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number		09/670,346-Conf. #4446
Filing Date		September 27, 2000
First Named Inventor		Robert Lamb
Art Unit		1615
Examiner Name		G. S. Kishore
Attorney Docket Number		30899/40642
Total Number of Pages In This Submission	9	

## ENCLOSURES (Check all that apply)

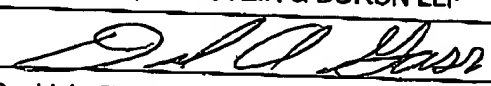
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Request for Continued Examination (RCE); Exhibit A: copy of Petition; Notification Pursuant to MPEP 409.01; Power of Attorney
<div>Remarks</div>		

FAX RECEIVED

NOV 15 2005

OFFICE OF PETITIONS

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	MARSHALL, GERSTEIN & BORUN LLP		
Signature			
Printed name	David A. Gass		
Date	November 15, 2005	Reg. No.	38,153

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV456043572US, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: November 15, 2005

Signature:



(Richard Zimmermann)

<b>Request For Continued Examination (RCE) Transmittal</b>  Address to: MS RCE Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number	09/670,346-Conf. #4446
	Filing Date	September 27, 2000
	First Named Inventor	Lamb
	Art Unit	1615
	Examiner Name	G. Kishore
	Attorney Docket Number	30899/40642

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.  
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on

ii. ☐ Other

b. ☒ Enclosed

i. ☒ Amendment/Reply

iii. ☐ Information Disclosure Statement (IDS)

ii. ☐ Affidavit(s)/Declaration(s)

iv. ☒ Other **Exhibit A-Petition Pursuant to 37 CFR 1.313 (C)**

**FAX RECEIVED**

NOV 15 2005

**OFFICE OF PETITIONS**

2. **Miscellaneous**

a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(l) required)

b. ☐ Other

3. **Fees** The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

a. ☒ The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments to Deposit Account No. 13-2855. I have enclosed a duplicate copy of this sheet.

i. ☒ RCE fee required under 37 CFR 1.17(e)

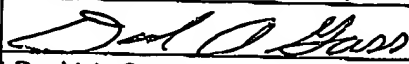
ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)

iii. ☐ Other

b. ☐ Check in the amount of \$ \_\_\_\_\_ enclosed

c. ☐ Payment by credit card (Form PTO-2038 enclosed)

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED**

Signature		Date	November 15, 2005
Name (Print/Type)	David A. Gass	Registration No.	38,153

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office, facsimile no. 571-273-8300, on the date shown below.

Dated: November 15, 2005

Signature:  (David A. Gass)

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office, facsimile no. 571-270-8300, on the date shown below.

Dated: November 15, 2005

Signature:

(David A. Gass)

Docket No.: 30899/40642  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Robert Lamb

Application No.: 09/670,346

Confirmation No.: 4446

Filed: September 27, 2000

Art Unit: 1615

For: VITAMIN E  
PHOSPHATE/PHOSPHATIDYLCHOLINE  
LIPOSOMES TO PROTECT FROM OR  
AMELIORATE CELL DAMAGE

Examiner: Not Yet Assigned

**AMENDMENT ACCOMPANYING RCE AND PETITION TO WITHDRAW FROM  
ISSUANCE UNDER 37 CFR 1.313(C)(2)**

MS RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**FAX RECEIVED**

NOV 15 2005

**OFFICE OF PETITIONS**

Dear Sir:

**INTRODUCTORY COMMENTS**

Prior to issuance of the patent, applicant respectfully requests entry on this amendment for the above-captioned patent application.

**Amendments to the Specification begin on page 2 of this paper.**

**There are no amendments to the Claims.**

**Remarks/Arguments begin on page 3 of this paper.**

Application No. 09/670,346  
Amendment dated November 15, 2005  
After Allowance Under 37 C.F.R. 1.312

Docket No.: 30899/40642

**AMENDMENTS TO THE SPECIFICATION**

Page 1, after the title, please delete the following paragraph:

~~This application is a continuation in part of Application Serial No. 09/368,173, filed August 5, 1999, now abandoned, which is a continuation in part of Application Serial No. 08/347,167, filed November 23, 1994, now abandoned, which is a continuation of Application Serial No. 08/109,486, filed August 20, 1993, now abandoned, which is a continuation in part of Application Serial No. 07/836,085, filed February 14, 1992, now abandoned.~~

**REMARKS**

Applicant respectfully seeks to amend the priority claim to the present application to delete reference to previously filed applications. The deleted paragraph was introduced by way of amendment filed in October 2002. The priority claim is being deleted solely to extend and maximize patent term and not for reasons related to patentability.

This amendment accompanies a Request for Continued Examination (RCE) and has been filed concurrently with a petition to withdraw from issuance (copy attached as Exhibit A).

If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that any fees are due, applicant authorizes the Commissioner to charge the fees due in connection with the filing of this document to Deposit Account No. 13-2855 referencing docket no. 30899/40642.

Dated: November 15, 2005

Respectfully submitted,

By   
David A. Gass

Registration No.: 38,153  
MARSHALL, GERSTEIN & BORUN LLP  
233 S. Wacker Drive, Suite 6300  
Sears Tower  
Chicago, Illinois 60606-6357  
(312) 474-6300  
Attorney for Applicant

MARSHALL, GERSTEIN & BORUN LLP  
ATTORNEYS AT LAW  
6300 SEARS TOWER  
233 SOUTH WACKER DRIVE  
CHICAGO, ILLINOIS 60606-6357  
(312) 474-6300  
FAX: (312) 474-0448

November 15, 2005

FACSIMILE TRANSMISSION SHEET

FAX RECEIVED

NOV 15 2005

OFFICE OF PETITIONS

TO MS Petitions  
COMPANY U.S. Patent and  
Trademark Office  
FAX NO. (571) 273-0025  
PHONE NO.

FROM: David A. Gass, Esq.

EXTENSION: 808

PAGES (INCLUDING THIS PAGE): 10

CLIENT NO: 30899

PLEASE CONFIRM RECEIPT: No

MATTER NO: 40642

COUNTRY CODE: US

MESSAGE:

*Please contact Rachelle Hammerquist at (312) 474-6808 if you do not receive all of the pages in good condition.*

\*\*\*\*\*

*The material of this transmission contains confidential information intended only for the addressee. If you are not the addressee, any disclosure or use of this information by you is strictly prohibited. If you have received this facsimile in error, please notify us by telephone immediately.*